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10/737,316	12/16/2003	Raymond R. Hornback JR.	IBM-007	5949

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EXAMINER

LIU, LIN

ART UNIT	PAPER NUMBER
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2145

MAIL DATE	DELIVERY MODE
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11/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/737,316

Applicant(s)

HORNBACK ET AL.

Examiner

Lin Liu

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 15-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 15-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

ETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1- 5, 9, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by **Popa (Patent no.: US 6,006,231)**.

With respect to **claim 1**, Popa teaches a method for configuring and dynamically adapting an application sharing system (Popa, fig. 3) comprising a plurality of computers in communication over a network, one of the computers having a plurality of system components and sharing an application with at least one other computer over the network, one of the system components adapted to provide feedback to the shared application, the method comprising:

determining a preference for the shared application (Popa, col. 5, lines 59-61, and line 66 to col. 6 line 6, noted that user selects the size and resolution of the image);

monitoring a feedback from the one of the system components (Popa, col. 5, lines 50-55, and col. 6, lines 7-20, noted that the server application monitors the request message from the client, and the preference of the image size and resolution picked by the user); and

configuring one of the system components in response to the determined preference and the monitored feedback (Popa col. 6, lines 14-30, noted that based on

the alteration of the user's choice, server application configures its setting by transferring the difference between the high resolution image and the original image).

With respect to **claim 2**, Popa teaches the method of claim 1 wherein the system component comprises one of a compression algorithm (Popa, col. 6, lines 38-44), a change detection algorithm, a screen capture device and a data transport type (Popa, col. 6, lines 37-38, communications protocol, TCP/IP).

With respect to **claim 3**, Popa teaches the method of claim 1 wherein the preference is a user preference (Popa, col. 5, lines 59-61, and line 66 to col. 6 line 6, noted that user selects the size and resolution of the image, and this image formation is sent as a request over the communication network to the server).

With respect to **claim 4**, Popa teaches the method of claim 3 wherein the user preference defines at least one of an image quality (Popa, col. 6, lines 1-6, image resolution) and a latency.

With respect to **claim 5**, Popa teaches the method of claim 3 wherein the user preference defines at least one of a CPU usage and a fidelity (Popa, col. 6, lines 1-6, image resolution).

With respect to **claim 9**, Popa, teaches the method of claim 1 further comprising selecting the preference for the shared application (Popa, col. 5, lines 59-61, and line 66 to col. 6 line 6, noted that user selects the size and resolution of the image).

With respect to **claim 15**, Popa teaches an apparatus for use in configuring and dynamically adapting an application sharing system having a plurality of software components, the apparatus comprising:

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means for determining a preference for a shared application (Popa, col. 5, lines 59-61, and line 66 to col. 6 line 6, noted that user selects the size and resolution of the image);

means for monitoring a feedback from one of the software components (Popa, col. 5, lines 50-55, and col. 6, lines 7-20, noted that the server application monitors the request message from the client, and the preference of the image size and resolution picked by the user); and

means for configuring one of the software components in response to the preference and the feedback (Popa col. 6, lines 14-30, noted that based on the alteration of the user's choice, server application configures its setting by transferring the difference between the high resolution image and the original image).

With respect to **claim 16** the limitations of this claim are substantially the same as those in claim 3. Therefore the same rationale for rejecting claim 3 is used to reject claim 16. By this rationale **claim 16** is rejected.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 6-8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Popa (Patent no.: US 6,006,231)** in view of **Boston et al. (Publication no.: US 2004/0101272 A1)**.

With respect to **claim 6**, Popa teaches a server API contains a graphical user interface specific functions designed for the development of the image application (Popa, Col. 7, lines 19-25). But he does not explicitly teach a method of allowing an administrator to set the administrator preference.

In the same field of endeavor, Boston teaches a method of allowing an administrator to set the administrator preference (Boston page 4, paragraph 36, noted the administrative user can edit the privilege levels and profiles of other users.).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of allowing an administrator to set the administrative preference as taught by Boston through the server API GUI provided in Popa's invention with motivation being that it provides administrator the privilege in editing the profiles of other users (Boston page 4, paragraphs 36 and 38).

With respect to **claim 7**, Popa teaches all the claimed limitations except that he does not explicitly teach a maximum data rate.

In the same field of endeavor, Boston teaches a data rate that each channel can support (Boston, page 9, paragraph 0079).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the use of the data rate transmission as taught by Boston in Popa's invention as the condition in limiting the selection of the user's preference in selecting the images. The motivation to combine this feature is to prevent the over use of bandwidth by all the users simultaneously.

With respect to **claim 8**, Popa teaches a method of limiting the selection of a user preference according to an image compression type (Popa, col. 6, lines 2-4, noted that predefined options). However, Popa does not explicitly teach a method of allowing an administrator to set the administrative preference in limiting the selection.

In the same field of endeavor, Boston teaches a method of allowing an administrator to set the administrator preference (Boston page 4, paragraph 36, noted the administrative user can edit the privilege levels and profiles of other users.).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate the method of allowing an administrator to set the administrative preference as taught by Boston to limit the selection of user preference in Popa's invention with motivation being that it provides administrator the privilege in editing the profiles of other users (Boston page 4, paragraphs 36 and 38).

With respect to **claim 17** the limitations of this claim are substantially the same as those in claim 6. Therefore the same rationale for rejecting claim 6 is used to reject claim 17. By this rationale **claim 17** is rejected.

Response to Arguments

6. Applicant's arguments filed on 08/28/2007 have been fully considered but they are not persuasive.

7. In response to applicant's argument that "In support of the claimed "monitoring a feedback..." the Office Action refers to Popa, col. 5, lines 50-55, and col. 6, lines 7-20, "noted that the server application monitors the request message from the client, and the preference of the image size and resolution picked by the user". (Office Action paragraph 11.) However, monitoring an external request from a user cannot be construed as monitoring feedback from a system component in a computer." The examiner disagrees. The present claim language does not explicitly require that the *feedback* is being generated from *the one of the system components*, but the fact it is the operation of *monitoring of a feedback* is performed from *the one of the system components*. Similarly, in the analogous art of Popa, he explicitly teaches a feedback request message generated from the client application to the server application, and the server application receives and monitors the feedback request message (Popa: fig. 3, col. 6, lines 7-30). Applicant is advised to amend the claims to explicitly clarify where is the feedback generated.

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8. In response to applicant's argument that "In support of the claimed "configuring one of the system components in response to the determined preference and the monitored feedback" the Office action refers to Popa col. 6, lines 14-30, noting that based on the user's choice, the server configures its settings. Again, the configuration of Popa is based directly on the user's choice. There is no teaching or suggestion that any feedback from a component in the server or server application is involved." The examiner disagrees. As the response stated above in regard to monitoring of a feedback; Popa discloses performing an operation of monitoring a feedback from the server application. In addition, Popa also teaches in responding to the preference made by the user and the monitoring of a feedback request message made by the client application, server application configures its image transferring setting (Popa: col. 6, lines 15-30).

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lin Liu whose telephone number is (571) 270-1447.

The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.Liu



JASON CARDONE
SUPERVISORY PATENT EXAMINER